

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

HOYT A. FLEMING,

Plaintiff,

v.

ESCORT, INC. and BELTRONICS
USA, INC.,

Defendants.

Case No. CV 09-105-S-BLW

MEMORANDUM DECISION

INTRODUCTION

The original Judgment in this case was for the amount of the jury verdict, \$750,000. That figure has been increased by subsequent decisions of this Court on various post-trial motions. This decision describes the changes to the original Judgment, and explains how the Court arrived at the new figure of \$1,454,404.56, contained in the accompanying Amended Judgment.

ANALYSIS

In a decision issued after the jury verdict, the Court found the defendants liable for pre-judgment interest (in the sum of \$559,479.45) and post-judgment interest (\$1,501.42). *See Memorandum Decision (Dkt. No. 376)*. In that same decision, the Court sanctioned defense counsel in the sum of 120% of the fees attributable to filing plaintiff's motion for sanctions, and ordered plaintiff's counsel to submit a petition detailing those fees. That petition has been submitted, *see Petition (Dkt. No. 379)*, and it details fees in

the sum of \$4,059, a sum the Court finds reasonable and will award.

The Court also found that 10% of the litigation costs incurred by plaintiff were caused by the vexatious conduct of defense counsel, and directed plaintiff to submit a petition detailing those fees. That petition has now been filed, *see Petition (Dkt. No. 380)*, and it details fees in the sum of \$125,424.85. The defendants object on the ground that the plaintiff failed to produce a contract for fees with his client. The contract is irrelevant. The Court's award was based on the vexatious conduct of defense counsel and such conduct is sanctionable regardless of the existence or nature of a fee contract between plaintiff and his counsel. The Court finds the sum reasonable and will add it to the Amended Judgment.

The Court also sanctioned defense counsel for revealing a settlement offer in violation of a Court order, and directed plaintiff's counsel to file a petition detailing the fees incurred in filing his motion for sanctions. That petition has now been filed, *see Petition (Dkt. No. 379)*, and it details fees in the sum of \$4,059. The defendants do not object to the sum and the Court finds it reasonable.

Finally, the Court awarded costs to plaintiff in the sum of \$13,939.84. When all of these sums, including the original jury verdict of \$750,000, are added, the final total for the Amended Judgment is \$1,454,404.56. The Court will enter an Amended Judgment in that sum.



DATED: July 11, 2014

B. Lynn Winmill

B. Lynn Winmill

Chief Judge

United States District Court